

EXHIBIT 29

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UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

In Re:)
)
) No. 2:21-cv-00563-JCC
VALVE ANTITRUST LITIGATION)
)

VIDEO-RECORDED DEPOSITION UPON ORAL EXAMINATION OF
THOMAS GIARDINO

*** HIGHLY CONFIDENTIAL - ATTORNEYS' EYES ONLY ***

9:04 A.M.

THURSDAY, NOVEMBER 2, 2023

701 FIFTH AVENUE, SUITE 5100

SEATTLE, WASHINGTON

Reported by: Tami Lynn Vondran, CRR, RMR, CCR/CSR

WA CCR #2157; OR CSR #20-0477; CA CSR #14435

Job Number 6276475

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2

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22 ALSO PRESENT:

23 LORI TALBOTT, Videographer

24 CHRIS SCHENCK, Valve in-house counsel

25 PEGGY OLDENBURG, Concierge - Via Zoom

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1 I N D E X

2 EXAMINATION BY: PAGE:LINE

3 Mr. Wolfson 9: 2

4 (Afternoon Session) Mr. Wolfson 163:10

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9 EXHIBITS FOR IDENTIFICATION MARKED

10 Exhibit 178 Email Exchange from Tom Giardino, .. 30:15

11 dated 3/14/18, VALVE_ANT_0263439

12 Exhibit 179 Email Exchange from Tom Giardino, .. 42: 7

13 dated 4/19/19, VALVE_ANT_0265435

14 Exhibit 180 Email Exchange from Tom Giardino, .. 64:16

15 dated 5/23/17, VALVE_ANT_0598921

16 Exhibit 181 Email Exchange from Izumi 90:12

17 Chunovic, dated 9/21/18,

18 VALVE_ANT_1191414

19 Exhibit 182 Email Exchange from DJ Powers, 98:13

20 dated 2/15/18, VALVE_ANT_1186878

21 Exhibit 183 Email Exchange from Tom 103:12

22 Giardino, dated 12/6/19,

23 VALVE_ANT_1198639

24 Exhibit 184 Email Exchange from Jon Pile, 128:22

25 dated 7/26/17, VALVE_ANT_2966472

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1 stop selling the game on Steam if we couldn't treat our
2 customers fairly."

3 Your words again?

4 A. Yes, that's right.

5 Q. Now, was it just poor choices of words to tell
6 this publisher that you would just stop selling the game
7 on Steam if they sold it for lower elsewhere?

8 A. I think I expressed to Markus that we'd ask to
9 get that same lower price, and that -- that's the
10 outcome we're hoping for. We would like that lower
11 price on our store as well.

12 Q. And if they didn't, you would say "or just
13 stop selling the game on Steam."

14 A. That was the consequence; right?

15 A. That's not a consequence or outcome that I
16 recall actually happening.

17 Q. But it's one you threatened here, isn't it?

18 A. No. I disagree.

19 Q. Okay. So when you were -- when your words to
20 this publisher are that if they sold it for lower, Steam
21 would just -- Valve would just stop selling the game on
22 Steam, your testimony to this jury is that that's not
23 some kind of implicit threat?

24 A. No. I don't believe that's a threat.

25 Q. All right. And then Mr. Heinsohn says, "We

1 But in reality, no, I don't -- I'm not aware
2 of times that we've stopped selling games altogether.

3 Q. Okay. What you're telling Mr. Heinsohn, when
4 he's asking specifically about the Steam key guidelines
5 that they have to commit to, those various
6 understandings, is that -- what you've said is, "We've
7 often opted not to promote games or stop selling them
8 altogether if we aren't able to get fair treatment for
9 our users"; right?

10 A. I can read back the email again if that's
11 helpful. I'm not sure what you're asking.

12 Q. Well, I'm saying that, once again -- or I'm
13 asking, once again, you have indicated to a publisher
14 that Valve's practice -- often practice is, among other
15 things, to not -- to stop selling a game if they're sold
16 for less elsewhere; right?

17 A. Yeah. As I've said before, it's a poor choice
18 of words and doesn't accurately reflect, as far as I
19 know, something we actually do on the store.

20 Q. Okay.

21 A. It is important to us to offer -- try to give
22 our customers a good price. But it's poorly phrased by
23 me.

24 Q. It's poorly phrased because it's -- well,
25 never mind.